

AMENDED IN ASSEMBLY APRIL 28, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1485**

**Introduced by Assembly Member Wyland**

February 22, 2005

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An act to amend ~~Section 14043.2~~ *Sections 14043.2 and 14043.26* of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1485, as amended, Wyland. Medi-Cal: providers: change in ownership.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits.

Existing law requires, with certain exceptions, an applicant for provider status in the Medi-Cal program and certain Medi-Cal providers to submit a complete application package for enrollment, continuing enrollment, or enrollment at a new location or a change in location. The department is required, within 30 days after receiving an application package under this provision, to provide written notice that the application package has been received. Applicants that have requested consideration and meet certain criteria to be granted preferred provisional provider status for 18 months are required to be notified within 90 days. Existing law requires the department, within 180 days after receiving an application package submitted under this provision or from the date of the notice to an applicant or provider that the applicant or provider does not qualify as a preferred provider, to give written notice to the applicant or provider that provisional provider status is being granted for 12 months, the application package is incomplete, the department is pursuing additional

investigation, or the application is being denied for designated reasons, or the department is required on the 181st day to grant the applicant or provider provisional provider status for a period no longer than 12 months, effective from the 181st day.

Existing regulations of the department provide that when there is a change in ownership, as defined in regulations, the previous provider number for the location shall be deactivated as of the effective date of the final transfer agreement and the enrollment of the provider is terminated.

~~This bill would require the department to develop a process under which, in any case in which there is a change of ownership and the new owner is already a Medi-Cal provider in the same category, the new owners existing provider number may be used for billing purposes pending review by the department of the new owner's application package for enrollment in the Medi-Cal program. The bill would also require the department to develop a process under which, in any case in which there is a change of ownership, the deactivation of the existing provider number may be suspended pending the review by the department of a new owner's application package for enrollment in the Medi-Cal program.~~

*This bill would establish procedures under which an applicant not currently enrolled in the Medi-Cal program who has submitted an application package for enrollment at the location of an existing provider may submit claims under the existing provider number for services rendered at that location until the application package is approved or denied. The applicant would be considered, during this period, to have been granted provisional provider status or preferred provisional provider status.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 14043.2 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14043.2. (a) (1) Whether or not regulations for certification
- 4 are adopted under Section 14043.15, in order to be enrolled as a
- 5 provider, or for enrollment as a provider to continue, an applicant
- 6 or provider may be required to sign a provider agreement and
- 7 shall disclose all information as required in federal Medicaid

1 regulations and any other information required by the  
2 department.

3 (2) Applicants, providers, and persons with an ownership or  
4 control interest, as defined in federal Medicaid regulations, shall  
5 submit their social security number or numbers to the  
6 department, to the full extent allowed under federal law.

7 (b) The director may designate the form of a provider  
8 agreement by provider type.

9 (c) (1) The failure to disclose, pursuant to subdivision (a), the  
10 required information, or the disclosure of false information, shall  
11 result in denial of the application for enrollment or shall make the  
12 provider subject to temporary suspension from the Medi-Cal  
13 program, which shall include temporary deactivation of all  
14 provider numbers used by the provider to obtain reimbursement  
15 from the Medi-Cal program.

16 (2) The director shall notify the provider of any temporary  
17 suspension and deactivation of the provider's Medi-Cal provider  
18 number or numbers, pursuant to paragraph (1), and the effective  
19 date thereof.

20 (3) Notwithstanding Section 100171 of the Health and Safety  
21 Code and Section 14123, proceedings after the imposition of  
22 sanctions provided for in this subdivision shall be in accordance  
23 with Section 14043.65.

24 ~~(d) (1) Notwithstanding Section 14043.26 or any other law,~~  
25 ~~the department shall develop a process under which, in any case~~  
26 ~~in which there is a change of ownership and the new owner is~~  
27 ~~already a Medi-Cal provider in the same category, the new~~  
28 ~~owner's existing provider number may be used for billing~~  
29 ~~purposes pending the review by the department of the new~~  
30 ~~owner's application package for enrollment in the Medi-Cal~~  
31 ~~program.~~

32 ~~(2) Notwithstanding Section 14043.26 or any other law, the~~  
33 ~~department shall develop a process under which, in any case in~~  
34 ~~which there is a change of ownership and the new owner is not~~  
35 ~~already a Medi-Cal provider in the same category, the~~  
36 ~~deactivation of the existing provider number may be suspended~~  
37 ~~pending the review by the department of a new owner's~~  
38 ~~application package for enrollment in the Medi-Cal program.~~

39 *SEC. 2. Section 14043.26 of the Welfare and Institutions*  
40 *Code is amended to read:*

14043.26. (a) (1) On and after January 1, 2004, an applicant that is not currently enrolled in the Medi-Cal program, or a provider applying for continued enrollment, upon written notification from the department that enrollment for continued participation of all providers in a specific provider of service category or subgroup of that category to which the provider belongs will occur, or a provider not currently enrolled at a location where the provider intends to provide services, goods, supplies, or merchandise to a Medi-Cal beneficiary, shall submit a complete application package for enrollment, continuing enrollment, or enrollment at a new location or a change in location.

(2) Clinics licensed by the department pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(3) Health facilities licensed by the department pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(4) Adult day health care providers licensed pursuant to Chapter 3.3 (commencing with Section 1570) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(5) Home health agencies licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(6) Hospices licensed pursuant to Chapter 8.5 (commencing with Section 1745) of Division 2 of the Health and Safety Code and certified by the department to participate in the Medi-Cal program shall not be subject to this section.

(b) Within 30 days after receiving an application package submitted pursuant to subdivision (a), the department shall provide written notice that the application package has been received and, if applicable, that there is a moratorium on the enrollment of providers in the specific provider of service category or subgroup of the category to which the applicant or

1 provider belongs. This moratorium shall bar further processing of  
2 the application package.

3 (c) (1) If the applicant package submitted pursuant to  
4 subdivision (a) is from an applicant or provider who meets the  
5 criteria listed in paragraph (2), the applicant or provider shall be  
6 considered a preferred provider and shall be granted preferred  
7 provisional provider status pursuant to this section and for a  
8 period of no longer than 18 months, effective from the date on  
9 the notice from the department. The ability to request  
10 consideration as a preferred provider and the criteria necessary  
11 for the consideration shall be publicized to all applicants and  
12 providers. An applicant or provider who desires consideration as  
13 a preferred provider pursuant to this subdivision shall request  
14 consideration from the department by making a notation to that  
15 effect on the application package, by cover letter, or by other  
16 means identified by the department in a provider bulletin.  
17 Request for consideration as a preferred provider shall be made  
18 with each application package submitted in order for the  
19 department to grant the consideration. An applicant or provider  
20 who requests consideration as a preferred provider shall be  
21 notified within 90 days whether the applicant or provider meets  
22 or does not meet the criteria listed in paragraph (2). If an  
23 applicant or provider is notified that the applicant or provider  
24 does not meet the criteria for a preferred provider, the application  
25 package submitted shall be processed in accordance with the  
26 remainder of this section.

27 (2) To be considered a preferred provider, the applicant or  
28 provider shall meet all of the following criteria:

29 (A) Hold a current license as a physician and surgeon issued  
30 by the Medical Board of California or the Osteopathic Medical  
31 Board of California, which license shall not have been revoked,  
32 whether stayed or not, suspended, placed on probation, or subject  
33 to other limitation.

34 (B) Be a current faculty member of a teaching hospital or a  
35 children's hospital, as defined in Section 10727, accredited by  
36 the Joint Commission for Accreditation of Healthcare  
37 Organizations or the American Osteopathic Association, or be  
38 credentialed by a health care service plan that is licensed under  
39 the Knox-Keene Health Care Service Plan Act of 1975 (Chapter  
40 2.2 (commencing with Section 1340) of Division 2 of the Health

1 and Safety Code; the Knox-Keene Act) or county organized  
2 health system, or be a current member in good standing of a  
3 group that is credentialed by a health care service plan that is  
4 licensed under the Knox-Keene Act.

5 (C) Have full, current, unrevoked, and unsuspended privileges  
6 at a Joint Commission for Accreditation of Healthcare  
7 Organizations or American Osteopathic Association accredited  
8 general acute care hospital.

9 (D) Not have any adverse entries in the Healthcare Integrity  
10 and Protection Databank.

11 (3) The department may recognize other providers as  
12 qualifying as preferred providers if criteria similar to those set  
13 forth in paragraph (2) are identified for the other providers. The  
14 department shall consult with interested parties and appropriate  
15 stakeholders to identify similar criteria for other providers so that  
16 they may be considered as preferred providers.

17 (d) Within 180 days after receiving an application package  
18 submitted pursuant to subdivision (a), or from the date of the  
19 notice to an applicant or provider that the applicant or provider  
20 does not qualify as a preferred provider under subdivision (c), the  
21 department shall give written notice to the applicant or provider  
22 that any of the following applies, or shall on the 181st day grant  
23 the applicant or provider provisional provider status pursuant to  
24 this section for a period no longer than 12 months, effective from  
25 the 181st day:

26 (1) The applicant or provider is being granted provisional  
27 provider status for a period of 12 months, effective from the date  
28 on the notice.

29 (2) The application package is incomplete. The notice shall  
30 identify any additional information or documentation that is  
31 needed to complete the application package.

32 (3) The department is exercising its authority under Section  
33 14043.37, 14043.4, or 14043.7, and is conducting background  
34 checks, preenrollment inspections, or unannounced visits.

35 (4) The application package is denied for any of the following  
36 reasons:

37 (A) Pursuant to Section 14043.2 or 14043.36.

38 (B) For lack of a license necessary to perform the health care  
39 services or to provide the goods, supplies, or merchandise  
40 directly or indirectly to a Medi-Cal beneficiary, within the

1 applicable provider of service category or subgroup of that  
2 category.

3 (C) The period of time during which an applicant or provider  
4 has been barred from reapplying has not passed.

5 (D) For other stated reasons authorized by law.

6 (e) (1) If the application package that was noticed as  
7 incomplete under subdivision (d) is resubmitted with all  
8 requested information and documentation, and received by the  
9 department within 35 days of the date on the notice, the  
10 department shall, within 60 days of the resubmission, send a  
11 notice that any of the following applies:

12 (A) The applicant or provider is being granted provisional  
13 provider status for a period of 12 months, effective from the date  
14 on the notice.

15 (B) The application package is denied for any other reasons  
16 provided for in paragraph (4) of subdivision (d).

17 (C) The department is exercising its authority under Section  
18 14043.37, 14043.4, or 14043.7 to conduct background checks,  
19 preenrollment inspections, or unannounced visits.

20 (2) (A) If the application package that was noticed as  
21 incomplete under paragraph (2) of subdivision (d) is not  
22 resubmitted with all requested information and documentation  
23 and received by the department within 35 days of the date on the  
24 notice, the application package shall be denied by operation of  
25 law. The applicant or provider may reapply by submitting a new  
26 application package that shall be reviewed de novo.

27 (B) If the failure to resubmit is by a provider applying for  
28 continued enrollment, the failure shall make the provider also  
29 subject to deactivation of all provider numbers used by the  
30 provider to obtain reimbursement from the Medi-Cal program.

31 (C) Notwithstanding subparagraph (A), if the notice of an  
32 incomplete application package included a request for  
33 information or documentation related to grounds for denial under  
34 Section 14043.2 or 14043.36, the applicant or provider may not  
35 reapply for enrollment or continued enrollment in the Medi-Cal  
36 program or for participation in any health care program  
37 administered by the department or its agents or contractors for a  
38 period of three years.

39 (f) (1) If the department exercises its authority under Section  
40 14043.37, 14043.4, or 14043.7 to conduct background checks,

1 preenrollment inspections, or unannounced visits, the applicant  
2 or provider shall receive notice, from the department, after the  
3 conclusion of the background check, preenrollment inspections,  
4 or unannounced visit of either of the following:

5 (A) The applicant or provider is granted provisional provider  
6 status for a period of 12 months, effective from the date on the  
7 notice.

8 (B) Discrepancies or failure to meet program requirements, as  
9 prescribed by the department, have been found to exist during the  
10 preenrollment period.

11 (2) (A) The notice shall identify the discrepancies or failures,  
12 and whether remediation can be made or not, and if so, the time  
13 period within which remediation must be accomplished. Failure  
14 to remediate discrepancies and failures as prescribed by the  
15 department, or notification that remediation is not available, shall  
16 result in denial of the application by operation of law. The  
17 applicant or provider may reapply by submitting a new  
18 application package that shall be reviewed de novo.

19 (B) If the failure to remediate is by a provider applying for  
20 continued enrollment, the failure shall make the provider also  
21 subject to deactivation of all provider numbers used by the  
22 provider to obtain reimbursement from the Medi-Cal program.

23 (C) Notwithstanding subparagraph (A), if the discrepancies or  
24 failure to meet program requirements, as prescribed by the  
25 director, included in the notice were related to grounds for denial  
26 under Section 14043.2 or 14043.36, the applicant or provider  
27 may not reapply for three years.

28 (g) If provisional provider status or preferred provisional  
29 provider status is granted pursuant to this section, a separate  
30 provider number shall be issued for each location for which an  
31 application package has been approved. This separate provider  
32 number shall be used exclusively for the location for which it is  
33 issued, unless the practice of the provider's profession or  
34 delivery of services, goods, supplies, or merchandise is such that  
35 services, goods, supplies, or merchandise are rendered or  
36 delivered at locations other than the provider's business address  
37 and this practice or delivery of services, goods, supplies, or  
38 merchandise has been disclosed in the application package  
39 approved by the department when the provisional provider status  
40 or preferred provisional provider status was granted.



(h) Except for providers subject to subdivision (c) of Section 14043.47, a provider currently enrolled in the Medi-Cal program at one or more locations who has submitted an application package for enrollment at a new location or a change in location pursuant to subdivision (a) may continue to submit claims under an existing provider number for services rendered at the new location until the application package is approved or denied under this section, and shall not be subject, during that period, to deactivation of the provider's provider number, or be subject to any delay or nonpayment of claims as a result of the use of the existing provider number for services rendered at the new location as herein authorized. However, the provider shall be considered during that period to have been granted provisional provider status or preferred provisional provider status and be subject to termination of that status pursuant to Section 14043.27. A provider that is subject to subdivision (c) of Section 14043.47 may come within the scope of this subdivision upon submitting documentation in the application package that identifies the physician providing supervision for every three locations.

*(i) (1) An applicant not currently enrolled in the Medi-Cal program who has submitted an application package for enrollment at a location of an existing provider may continue to submit claims under the existing provider number at that location for services rendered at that location until the application package is approved or denied under this section, and shall not be subject, during that period, to deactivation of the existing provider number, or be subject to any delay or nonpayment of claims as a result of the use of the existing provider number at that location for services rendered at that location provided that the applicant has submitted proof to the department that they have entered into a department-approved successor liability agreement with the existing provider, which makes the applicant liable for the debts and obligations of the existing provider.*

*(2) An applicant that submits claims under an existing provider number pursuant to paragraph (1) shall be considered, during this period, to have been granted provisional provider status or preferred provisional provider status and be subject to termination of that status pursuant to Section 14043.27.*

(i)

1     *(j)* An applicant or a provider whose application for  
2 enrollment, continued enrollment, or a new location or change in  
3 location has been denied pursuant to this section, may appeal the  
4 denial in accordance with Section 14043.65.

O